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Attorneys for Defendants Maryland Square Shopping Center, LLC,  
 the Herman Kishner Trust d/b/a Maryland Square Shopping Center,  
 Irwin Kishner, Jerry Engel, and Premier Trust, as Trustees for  
 The Herman Kishner Trust

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

PETER J. VOGGENTHALER; et. al.  
 Plaintiffs,  
 vs.  
 MARYLAND SQUARE, LLC; et. al.  
 Defendants.

Case No.: 2:08-cv-01618-RCJ-GWF

**JOINT STATUS REPORT OF KISHNER  
 DEFENDANTS, INCLUDING MSLLC;  
 SHAPIRO DEFENDANTS; and NEVADA  
 DIVISION OF ENVIRONMENTAL  
 PROTECTION**

AND RELATED CROSS AND THIRD PARTY  
 CLAIMS

STATE OF NEVADA, DEPT. OF  
 CONSERVATION AND NATURAL  
 RESOURCES, et. al.

CONSOLIDATED WITH:

Case No.: 3:09-cv-231-RCJ-GWF

Plaintiff,  
 vs.  
 MARYLAND SQUARE SHOPPING CENTER,  
 LLC, et. al.  
 Defendants.

AND RELATED THIRD PARTY CLAIMS

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///

1 The undersigned parties, Maryland Square Shopping Center, LLC, the Herman Kushner  
 2 Trust d/b/a Maryland Square Shopping Center, Irwin Kushner, Jerry Engel and Bank of  
 3 America, N.A.,<sup>1</sup> as Trustees for The Herman Kushner Trust (the “Kishner Defendants”), Patricia  
 4 Leibovici, in her capacity as Special Administrator of the Estate of Melvin Shapiro, Shapiro  
 5 Brothers Investment Co. (“SBIC”), Maryland Square LLC, and Nevada Division of  
 6 Environmental Protection (collectively, the “Parties”), by and through their counsel of record,  
 7 hereby submit this Joint Status Report to assist the Court in advance of the Status Conference  
 8 scheduled for May 16, 2014.

9 Since the last Status Conference on February 13, 2014, the Parties and their various  
 10 carrier representatives conducted a further session of in person mediation with the mediator  
 11 Robert J. Kaplan, Esq. in San Diego, California on March 13, 2014.

12 At the conclusion of that mediation session, a global resolution of all issues of insurance  
 13 indemnity of the Kushner Defendants and the Shapiro Defendants was achieved between the  
 14 Kushner Defendants, the Shapiro Defendants, the various insurance carriers and NDEP. A  
 15 memorandum of understanding was reached, and the various settlement agreements are  
 16 presently being documented and are expected to be fully executed in the next two to three (2-3)  
 17 weeks.

18 The funding from the global settlement will allow the Kushner Defendants to implement  
 19 the expected groundwater remedy under the Permanent Injunction. It is anticipated that NDEP  
 20 will issue in the next few weeks the Proposed Plan (i.e., the Remedial Action Plan) for the  
 21 selected remedial actions to achieve the remediation standards for PCE in indoor air and  
 22 groundwater. Once the Proposed Plan is finalized and an accurate timeline is available for  
 23 implementing compliance with the remainder of the Permanent Injunction, the Kushner  
 24

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25  
 26 <sup>1</sup> On or about July 12, 2013, the Probate Court of the Eighth Judicial District Court, Clark  
 27 County, Nevada, entered an Order, allowing Defendant Bank of America, N.A., as Trustee for  
 28 Defendant Herman Kushner Trust, to withdraw as Trustee. Thereupon, Premier Trust, Inc., a  
 Nevada corporation, was installed as a Trustee for Defendant Herman Kushner Trust. Defendant  
 Herman Kushner Trust will seek the parties’ stipulation to the Court to allow the Court to Order  
 a substitution of these parties.

1 Defendants and NDEP expect to petition this Court for modifications to the Permanent  
2 Injunction consistent with the Proposed Plan.

3 Accordingly, the Parties respectfully request the following:

- 4 (1) The Court shall stay all litigation activities; and  
5 (2) The Parties shall provide the Court with a further joint status report by August 1,  
6 2014 or as the Court may otherwise direct.

7  
8 DATED: May 13, 2014

DONGELL LAWRENCE FINNEY LLP

9  
10 By: /s/Thomas F. Vandenburg  
11 Thomas F. Vandenburg  
12 *Attorneys for Defendants Maryland Square*  
13 *Shopping Center, LLC, the Herman Kishner Trust*  
14 *d/b/a Maryland Square Shopping Center, Irwin*  
15 *Kishner, Jerry Engel, and Premier Trust, as*  
16 *Trustees for The Herman Kishner Trust*

17  
18 DATED: May 13, 2014

BENESCH FRIEDLANDER COPLAN &  
ARONOFF, LLP

19 By: /s/Jeremy Gilman  
20 Jeremy Gilman  
21 *Attorneys for Defendants Patricia Leibovici, in her*  
22 *capacity as Special Administrator of the Estate of*  
23 *Melvin Shapiro, Estate of Phillip Shapiro, and*  
24 *Shapiro Brothers Investment Co.*

25  
26 DATED: May 13, 2014

NEIL J. BELLER, LTD.

27 By: /s/Neil J. Beller  
28 Neil J. Beller  
29 *Attorneys for Defendants Patricia Leibovici, in her*  
30 *capacity as Special Administrator of the Estate of*  
31 *Melvin Shapiro, Estate of Phillip Shapiro, and*  
32 *Shapiro Brothers Investment Co.*

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1 DATED: May 13, 2014

LAWSON & WEITZEN, LLP

2  
3 By: /s/Franklin H. Levy  
Franklin H. Levy  
4 *Attorneys for Defendant Maryland Square, LLC*

5 DATED: May 13, 2014

CATHERINE CORTEZ MASTO  
Attorney General

6  
7 By: /s/Wayne Klomp  
8 Wayne Klomp  
Deputy Attorney General  
9 *Attorneys for Plaintiff State of Nevada, Division of*  
10 *Environmental Protection*

**PROOF OF SERVICE**

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States of America, am over the age of 18 and not a party to the within action. My business address is 707 Wilshire Boulevard, 45th Floor, Los Angeles, CA 90017-3609. On May 13, 2014, I served a copy of the foregoing document described as follows:

**JOINT STATUS REPORT OF KISHNER DEFENDANTS, INCLUDING MSLLC;  
SHAPIRO DEFENDANTS; and NEVADA DIVISION OF ENVIRONMENTAL  
PROTECTION**

served:

[ X ] Electronically in accordance with United States District Court of the District of Nevada Electronic Filing Procedures, Section IV Service, B. Electronic Service.

I declare that I am employed in the office of an attorney who has been admitted *pro hac vice* for the purpose of this case only to the bar of this court at whose direction the service was made.

Under penalty of perjury, I declare the aforesaid to be true and correct.

Executed on May 13, 2014.

By: /s/ Sheryl R. Douglas  
Sheryl R. Douglas

1562-092/84842